

REMARKS

In the Office Action mailed September 19, 2007, claims 1-9, 13-15 and 17 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 6,228,063 to Aboul-Hosn (hereinafter "Aboul-Hosn"). Claims 19, 21 and 23 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 6,537,299 to Hogendijk et al. (hereinafter "Hogendijk et al."). Claim 10 stands rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn in view of U.S. Patent No. 5,330,497 to Freitas et al. (hereinafter "Freitas et al."). Claims 11-12 stand rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn in view of U.S. Patent No. 2,064,435 to Loeffler et al. (hereinafter "Loeffler et al."). Claim 16 stands rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn in view of U.S. Patent No. 5,423,796 to Shikhman et al. (hereinafter "Shikhman et al."). Claims 1-9, 13-24, 28-30 and 32 stand rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn in view of Hogendijk et al. Claim 10 stands rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn and Hogendijk et al. in view of Freitas et al. Claims 11-12 and 26-27 stand rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn and Hogendijk et al. in view of Loeffler et al. Claims 16 and 31 stand rejected under 35 USC 103(a) as being unpatentable over Aboul-Hosn and Hogendijk et al. in view of Shikhman et al. Applicant respectfully disagrees with the Examiner's analysis and requests reconsideration of the claims.

Claim 1 recites, *inter alia*,

... wherein said flexible flange has a frusto-conical shape with a proximally-concave inner and outer surfaces, said flexible flange extending radially outward from the exterior surface of said tubular section in a proximal direction toward the proximal end of said tubular section, and **said flexible flange being adapted to fold radially inward such that said inner surface of said flexible flange contacts the exterior surface of said tubular section during insertion of said port body** through a narrow opening in the body wall to thereby reduce diameter of the flexible flange during such insertion. (emphasis added).

Nowhere does the cited prior art teach or suggest these features.

The Examiner rejects claim 1 as being anticipated by Aboul-Hosn. The Examiner equates the lip structure 22 of Aboul-Hosn to the flexible flange of claim 1. This analysis is flawed. The lip structure 22 of Aboul-Hosn provides a concave surface that extends radially inward toward the penetrating member 72 and the interior surface of the cylindrical member 12 during insertion (FIG. 2A). After insertion, the lip structure 22 moves downward and then radially outward to form a proximally-convex sealing surface (FIGS. 2B and 5). In contrast, the flexible flange of claim 1 extends **“radially outward from the exterior surface of said tubular section in a proximal direction toward the proximal end of said tubular section.”** The concave lip structure 22 of Aboul-Hosn does not extend radially outward from the exterior surface of a tubular member in a proximal direction toward the proximal end of said tubular section as recited in claim 1. Nowhere has the Examiner provided rationale as to how Aboul-Hosn teaches this feature. Moreover, claim 1 recites the “flexible flange being adapted to fold radially inward **such that said inner surface of said flexible flange contacts the exterior surface of said**

tubular member during insertion of said port body.” See FIG. 4A of the present application. In contrast, the lip structure 22 of Aboul-Hosn extends radially inward toward the penetrating member 72 and **toward the interior surface of the cylindrical member 12** during insertion (FIG. 2A). It does not contact the exterior surface of the cylindrical member 12 during insertion. For these reasons, claim 1 is clearly not anticipated by Aboul-Hosn. Moreover, the apparatus of claim 1 has advantages over the sealing flange of Aboul-Hosn as it is easier to deploy and bring into sealing engagement with the adjacent body wall as compared to the sealing flange of Aboul-Hosn, which requires a large number of suture lines as shown in FIG. 5.

Similar arguments apply to the rejection of claim 1 as being obvious over the combination of Aboul-Hosn and Hogendijk et al. as Hogendijk et al. does not remedy the shortcomings of Aboul-Hosn.

Because of these significant differences, Applicant respectfully submits that claim 1 as amended is patentable over the cited prior art.

Dependent claims 5-18 are patentable over the cited prior art for those reasons advanced above with respect to independent claim 1 from which they respectively depend and for reciting additional features neither taught nor suggested by the cited prior art.

For example, claim 11 recites that “a distal portion of said tubular section includes

material surrounding at least one window defined therein, and said flexible flange is integrally formed with said distal portion of tubular section via injection molding of the material through said at least one window.” Nowhere does the cited prior art teach or suggest these features. The Examiner relies on Loeffler as suggesting this feature. Loeffler describes a telephone headset formed from a reinforcing substructure 2 with holes. It has nothing to do with a window defined in a tubular section of a port body for injection molding of a flange to the tubular section as required by claim 11.

In another example, claim 12 recites that “said distal end of said tubular section is turned inward.” This structure minimizes tearing of flexible flange during insertion. See lines 5-9 of page 7 of the present application. Nowhere does the cited prior art teach or suggest these features. The Examiner relies on Loeffler as suggesting this feature but fails to provide how Loeffler teaches these features.

Claim 19 is directed to a surgical port device including, inter alia,

... a port body including a tubular section having a distal end and a flange disposed at said distal end, said flange having a frusto-conical shape with a proximally-concave inner surface adapted to engage the body wall opposite **a proximally-concave distal outer surface and also having an annular projection that projects outward from a central portion of said distal outer surface** to provide a drip edge adapted to direct fluids around its periphery. (emphasis added)

Nowhere does the cited prior art teach or suggest these features.

The Examiner rejects claim 19 as being anticipated by Hogendijk et al. The

Examiner equates the rim 19'''' of Hogendijk et al. to the annular projection of claim 19. This analysis is flawed. The rim 19'''' is the terminal end of the proximally-concave distal outer surface of the device and clearly does not **“project outward from a central portion of said outer surface”** as required by claim 19. Moreover, Hogendijk et al. is directed to a hemostatis device for sealing an opening in a blood vessel and has nothing to do with a surgical port device as recited in claim 19. Such a surgical port device provides a passageway for the introduction of surgical instruments and tools. Thus, the Hogendijk et al. reference does not apply to the present invention.

Similar arguments apply to the rejection of claim 19 as being obvious over the combination of Aboul-Hosn and Hogendijk et al. as Aboul-Hosn does not remedy the shortcomings of Hogendijk et al.

Because of these significant differences, Applicant respectfully submits that claim 19 as amended is patentable over the cited prior art.

Dependent claims 20-32 and 43 are patentable over the cited prior art for those reasons advanced above with respect to independent claim 19 from which they respectively depend and for reciting additional features neither taught nor suggested by the cited prior art. For example, claims 26 and 27 are patentable over the cited prior art for those reasons advanced above with respect to claims 11 and 12, respectively.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay P. Sbrollini". The signature is fluid and cursive, with a long horizontal stroke at the end.

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